

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

LENNARD HAMMERSCHLAG, individually, and on  
behalf of all others similarly situated,

Plaintiff,

v.

CITIGROUP INC., *et al.*,

Defendants.

Electronically filed

No. 07 Civ. 10258 (RJS) (JCF)

ECF Case

BENJAMIN NATHANSON, derivatively on behalf of  
CITIGROUP, INC.,

Plaintiff,

v.

CHARLES PRINCE, *et al.*,

Defendants.

Electronically filed

No. 07 Civ. 10333 (JSR) (MHD)

ECF Case

SAM COHEN, derivatively and on behalf of  
CITIGROUP, INC.,

Plaintiff,

v.

CITIGROUP, INC., *et al.*,

Defendants.

Electronically filed

No. 07 Civ. 10344 (JSR) (MHD)

ECF Case

**DEFENDANTS' MOTION TO REASSIGN RELATED CASES**

There are twenty actions pending in this Court relating to Citigroup's exposure to subprime mortgages: thirteen cases alleging violations of the ERISA statute; five shareholder derivative actions; and two complaints alleging securities fraud. Of those twenty cases, seventeen were either: assigned to Judge Stein from the beginning (the *Gray* ERISA action); designated as potentially related to an action pending before Judge Stein (11 ERISA cases and

the *Ryan* derivative case); or reassigned to Judge Stein after initial assignments to other judges (the *Harris* and *Cinotto* derivative actions, the *Saltzman* securities-fraud case, and the *Rose* ERISA action). Defendants bring this motion to transfer or assign the three remaining cases to Judge Stein, such that all these Citigroup subprime matters may be handled by a single judge.<sup>1</sup>

Rule 15 of this Court's Rules for the Division of Business Among District Judges calls for the transfer and coordination of pretrial proceedings in related cases. The *Manual for Complex Litigation* likewise states that "[a]ll pending related cases or cases that may later be filed in the same court . . . should be assigned at least initially to the same judge." MANUAL FOR COMPLEX LITIGATION (FOURTH) § 10.123.

The three cases that defendants seek to transfer with this motion are closely related to the seventeen other cases that already are either pending before Judge Stein or on their way to him. All twenty involve allegations concerning the management of Citigroup's exposure to subprime mortgages. All twenty also allege a failure by Citigroup to disclose those exposures. *Nathanson* and *Cohen* are shareholder derivative actions, and *Hammerschlag* is a securities-fraud case. Judge Stein has both kinds of cases already before him, in addition to twelve ERISA cases.<sup>2</sup> In light of the common questions of both fact and law here, it would promote the parties' and the

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<sup>1</sup> The ERISA actions are *Gray v. Citigroup Inc., et al.*, No. 07 Civ. 9790 (SHS) (DCF), *Rose v. Prince, et al.*, No. 07 Civ. 10294 (SHS), *Tranberg v. Citigroup Inc., et al.*, No. 07 Civ. 10341 (SHS), *Rappold v. Citigroup Inc., et al.*, No. 07 Civ. 10396 (SHS), *Tadros v. Citigroup Inc., et al.*, No. 07 Civ. 10442 (SHS), *Fiorino v. Citigroup Inc., et al.*, No. 07 Civ. 10458 (SHS), *Bolla v. Citigroup Inc., et al.*, No. 07 Civ. 10461 (SHS), *Geroulo v. Citigroup Inc., et al.*, No. 07 Civ. 10472 (SHS), *Stevens v. Citigroup Inc., et al.*, No. 07 Civ. 11156 (SHS), *Goldstein v. Citigroup Inc., et al.*, No. 07 Civ. 11158 (SHS), *Southard v. Citigroup Inc., et al.*, No. 07 Civ. 11164 (SHS), *Woodward v. Citigroup Inc., et al.*, No. 07 Civ. 11207 (SHS), and *Brick v. Citigroup Inc., et al.*, No. 07 Civ. 11369 (unassigned but designated as related to *Gray*). The derivative actions are *Harris v. Prince, et al.*, No. 07 Civ. 9841 (SHS) (MHD), *Cinotto v. Prince, et al.*, No. 07 Civ. 9900 (SHS) (MHD), *Nathanson v. Prince, et al.*, No. 07 Civ. 10333 (JSR) (MHD), *Cohen v. Citigroup, Inc., et al.*, No. 07 Civ. 10344 (JSR) (MHD), and *Ryan v. Prince, et al.*, No. 07 Civ. 11581 (unassigned but designated as related to *Harris*). The securities-fraud cases are *Saltzman v. Citigroup Inc., et al.*, No. 07 Civ. 9901 (SHS) (FM), and *Hammerschlag v. Citigroup Inc., et al.*, No. 07 Civ. 10258 (RJS) (JCF).

<sup>2</sup> On December 19, 2007, Judge Stein entered an order (attached at Tab A) establishing a briefing schedule for plaintiffs' motions to appoint lead plaintiffs and lead counsel in the ERISA actions. That order indicates that all the ERISA cases that had been filed as of December 17 are now pending before Judge Stein, although the docket in the *Rose* case, which was initially assigned to Judge Chin, does not yet reflect a transfer to Judge Stein. The December 19 order does not refer to the *Brick* case, which was filed December 18 and designated as related to *Gray*.

Court's interests in efficiency, convenience and consistency for all these subprime cases to be assigned to one judge.

Beyond the obvious logic of having these cases handled by a single judge, there are additional practical considerations favoring reassignment:

- Both the *Nathanson* and *Cohen* derivative actions, which are now pending before Judge Rakoff, were accepted as related to the *Harris* derivative action, which was initially assigned to Judge Rakoff but then reassigned to Judge Stein.
- Transfer of the *Hammerschlag* securities-fraud action to Judge Stein—who now has before him the other subprime securities-fraud case, *Saltzman*, which was transferred from Judge Baer—will facilitate compliance with the procedural requirements of the PSLRA, including the obligation to select lead plaintiffs and lead counsel. *See* 15 U.S.C. § 78u-4(a)(3)(B).

For these reasons, and for the reasons expressed in our letters to the Court dated November 9 and November 15, 2007 (attached at Tabs B and C), defendants respectfully request that these subprime cases be transferred to Judge Stein.

Dated: New York, New York  
December 31, 2007

WACHTELL, LIPTON, ROSEN & KATZ

By: Lawrence B. Pedowitz /BKW

Lawrence B. Pedowitz (LP 9718)  
George T. Conway III (GC 3181)  
Jonathan M. Moses (JM 9049)  
John F. Lynch (JL 6661)  
51 West 52nd Street  
New York, New York 10019-6150  
Telephone: (212) 403-1000  
Facsimile: (212) 403-2000

*Attorneys for Citigroup Inc., C. Michael  
Armstrong, Alain J.P. Belda, George  
David, Kenneth T. Derr, John M. Deutch,  
Roberto Hernandez Ramirez, Andrew N.  
Liveris, Anne M. Mulcahy, Richard D.  
Parsons, Judith Rodin, Robert E. Rubin,  
Robert L. Ryan, Franklin A. Thomas, Ann  
Dibble Jordan, Dudley C. Mecum, and  
Klaus Kleinfeld*

PAUL, WEISS, RIFKIND, WHARTON &  
GARRISON LLP

By: Brad S. Karp /BKW

Brad S. Karp (BK 3702)  
Richard A. Rosen (RR 5132)  
Lewis R. Clayton (LC 7207)  
1285 Avenue of the Americas  
New York, New York 10019-6064  
Telephone: (212) 373-3000  
Facsimile: (212) 492-3990

*Attorneys for Citigroup Inc., Charles  
Prince, Winfried Bischoff, Robert Druskin,  
William R. Rhodes, Sallie L. Krawcheck,  
David C. Bushnell, Steven J. Freiberg,  
John C. Gerspach, Michael S. Helfer,  
Michael Klein, Stephen R. Volk, Lewis B.  
Kaden, Gary Crittenden, and Thomas G.  
Maheras*

## **TAB A**

<b>USDC SDNY</b> <b>DOCUMENT</b> <b>ELECTRONICALLY FILED</b> <b>DOC #:</b> _____ <b>DATE FILED:</b> 12/20/07
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

STEPHEN GRAY, : 07 Civ. 9790 (SHS)

Plaintiff, :

-against- :

ORDER

CITIGROUP INC., *ET AL.*, :

Defendants. :

-----X

SHAUN ROSE, : 07 Civ. 10294 (SHS)

Plaintiff, :

-against- :

CITIGROUP INC., *ET AL.*, :

Defendants. :

-----X

MEREDITH TRANBERG, : 07 Civ. 10341 (SHS)

Plaintiff, :

-against- :

CITIGROUP INC., *ET AL.*, :

Defendants. :

-----X

ANTON K. RAPPOLD, : 07 Civ. 10396 (SHS)

Plaintiff, :

-against- :

CITIGROUP INC., *ET AL.*, :

Defendants. :

-----X

-----X

SAMIER TADROS,	:	07 Civ. 10442 (SHS)
	:	
Plaintiff,	:	
	:	
-against-	:	
	:	
CITIGROUP INC., <i>ET AL.</i> ,	:	
	:	
Defendants.	:	

-----X

STEPHAN FIORINO,

Plaintiff,

-against-

CITIGROUP INC., *ET AL.*,

Defendants.

-----X

JAMES BOLLA,

Plaintiff,

-against-

CITIGROUP INC., *ET AL.*,

Defendants.

-----X

MARK GEROULO,

Plaintiff,

-against-

CITIGROUP INC., *ET AL.*,

Defendants.

-----X

-----X  
ALAN STEVENS, : 07 Civ. 11156 (SHS)  
  
Plaintiff, :  
  
-against- :  
  
CITIGROUP INC., *ET AL.*, :  
  
Defendants. :  
-----X

STEVEN GOLDSTEIN, : 07 Civ. 11158 (SHS)  
  
Plaintiff, :  
  
-against- :  
  
CITIGROUP INC., *ET AL.*, :  
  
Defendants. :  
-----X

CHRIS SOUTHARD, : 07 Civ. 11164 (SHS)  
  
Plaintiff, :  
  
-against- :  
  
CITIGROUP INC., *ET AL.*, :  
  
Defendants. :  
-----X

WILLIAM WOODWARD, *ET ANO*, : 07 Civ. 11207 (SHS)  
  
Plaintiff, :  
  
-against- :  
  
CITIGROUP INC., *ET AL.*, :  
  
Defendants. :  
-----X

SIDNEY H. STEIN, U.S.D.J.



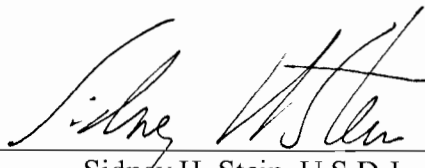
The above-captioned ERISA class actions have been assigned to this Court. The Court is currently aware of three pending motions to consolidate and appoint interim lead plaintiffs and lead counsel by plaintiffs Gray, Tadros, and Bolla; plaintiff Goldstein; and plaintiffs Geroulo and Rose. The Court has also been informed in writing that plaintiff Stevens intends to move to consolidate and appoint interim lead plaintiff and lead counsel. Accordingly,

IT IS HEREBY ORDERED that:

1. If any plaintiff intends to move to consolidate and appoint interim lead plaintiff and lead counsel they shall do so by December 26, 2007.
2. Any opposition to these motions shall be filed by January 4, 2008;
3. Reply papers shall be filed by January 10, 2008;
4. Oral argument on the motions will be heard on January 17, 2008, at 4:00 p.m.;
5. The parties are directed to serve courtesy copies of all motion papers on the Court at the same time they are served on opposing counsel; and
6. Following the determination of those motions, the Court will be asking the parties to develop a case management order for the orderly progress of these litigations.

Dated: New York, New York  
December 19, 2007

SO ORDERED:

  
\_\_\_\_\_  
Sidney H. Stein, U.S.D.J.

## **TAB B**

WACHTELL, LIPTON, ROSEN & KATZ

MARTIN LIPTON  
HERBERT M. WACHTELL  
BERNARD W. NUSSBAUM  
RICHARD D. KATCHER  
ALLAN A. MARTIN  
LAWRENCE B. PEDOWITZ  
ROBERT B. MAZUR  
PAUL VIZCARRONDO, JR.  
PETER C. HEIN  
HAROLD S. NOVAKOFF  
DAVID M. EINHORN  
KENNETH B. FORREST  
MEYER G. KOPLOW  
THEODORE N. MIRVIS  
EDWARD D. HERLIHY  
DANIEL A. NEFF  
ERIC M. ROTH  
WARREN R. STERN  
ANDREW R. BROWNSTEIN  
MICHAEL H. BYOWITZ  
PAUL K. ROWE  
MARC WOLINSKY  
DAVID GRUENSTEIN  
PATRICIA A. VLAHAKIS  
STEPHEN G. GELLMAN  
STEVEN A. ROSENBLUM  
PAMELA S. SEYMOR  
STEPHANIE J. SELIGMAN  
ERIC S. ROBINSON  
JOHN F. SAVARESE  
SCOTT K. CHARLES  
ANDREW C. HOUSTON  
PHILIP MINDLIN  
DAVID S. NEILL  
JODI J. SCHWARTZ  
ADAM O. EMMERICH  
CRAIG M. WASSERMAN  
GEORGE T. CONWAY III  
RALPH M. LEVENE

RICHARD G. MASON  
DOUGLAS K. MAYER  
MICHAEL J. SEGAL  
DAVID M. SILK  
ROBIN PANOVKA  
DAVID A. KATZ  
ILENE KNABLE GOTTS  
DAVID M. MURPHY  
JEFFREY M. WINTNER  
TREVOR S. NORWITZ  
BEN M. GERMANA  
ANDREW J. NUSSBAUM  
RACHELLE SILVERBERG  
DAVID C. BRYAN  
STEVEN A. COHEN  
GAVIN D. SOLOVAR  
DEBORAH L. PAUL  
DAVID C. KARP  
RICHARD K. KIM  
JOSHUA R. CAMMAKER  
MARK GORDON  
JOSEPH D. LARSON  
LAWRENCE S. MAKOW  
JARED M. RUSMAN  
JEANNEMARIE O'BRIEN  
WAYNE M. CARLIN  
JAMES COLE, JR.  
STEPHEN R. DIPRIMA  
NICHOLAS G. DEMMO  
IGOR KIRMAN  
JONATHAN M. MOSES  
T. EIKO STANGE  
DAVID A. SCHWARTZ  
JOHN F. LYNCH  
WILLIAM SAVITT  
ERIC M. ROSOF  
MARTIN J.E. ARMS  
GREGORY E. OSTLING

51 WEST 52ND STREET  
NEW YORK, N.Y. 10019-6150  
TELEPHONE: (212) 403-1000  
FACSIMILE: (212) 403-2000

GEORGE A. KATZ (1965-1989)  
JAMES H. FOGELSON (1967-1991)

OF COUNSEL

WILLIAM T. ALLEN  
PETER C. CANELLOS  
THEODORE GEWERTZ  
KAREN G. KRUEGER  
THEODORE A. LEVINE  
LEONARD M. ROSEN  
MICHAEL W. SCHWARTZ  
ELLIOTT V. STEIN  
J. BRYAN WHITWORTH  
AMY R. WOLF

COUNSEL

MICHELE J. ALEXANDER  
DAVID B. ANDERS  
ADRIENNE ATKINSON  
ANDREW J.H. CHEUNG  
DAMIAN G. DIDDEN  
PAMELA EHRENKRANZ  
ROBERT A. FRIEDMAN  
PAULA N. GORDON  
NANCY B. GREENBAUM  
MAURA R. GROSSMAN  
IAN L. LEVIN  
ADAM J. SHAPIRO  
HOLLY M. STRUTT

J. AUSTIN LYONS  
LORI S. SHERMAN  
JONATHAN E. PICKHARDT  
NELSON O. FITTS  
JEFFREY C. FOURMAUX  
JEREMY L. GOLDSTEIN  
JOSHUA M. HOLMES  
DAVID E. SHAPIRO  
ANTE VUCIC  
IAN BOZCKO  
LAURYN P. GOULDIN  
MATTHEW M. GUEST  
DAVID E. KAHAN  
MARK A. KOENIG  
DAVID K. LAM  
MICHAEL S. WINOGRAD  
KATHRYN GETTLES-ATWA  
DANIELLE L. ROSE  
BENJAMIN M. ROTH  
ANDREW A. SCHWARTZ  
DAVID M. ADLERSTEIN  
SHIRI BEN-YISHAI  
JOSHUA A. FELTMAN  
STEPHEN M. FRANCIS  
JONATHAN H. GORDON  
MARGARET ISA BUTLER  
EMIL A. KLEINHAUS  
WILLIAM E. SCHEFFER  
ADIR G. WALDMAN  
AREF H. AMANAT  
RONALD C. CHEN  
B. UMUT ERGUN  
EVAN K. FARBER  
MICHAEL KRASNOVSKY  
SARAH A. LEWIS  
YELENA ZAMACONA  
GARRETT B. MORITZ  
JOSHUA A. NAFTALIS

VINAY SHANDAL  
MEREDITH L. TURNER  
KARESSA L. CAIN  
WILLIAM EDWARDS  
JAMES R. GILMARTIN  
ADAM M. GOGOLAK  
JONATHAN GOLDIN  
ROGER J. GRIESMEYER  
DANIEL E. HEMLI  
GAVIN W. HOLMES  
MATTHEW S. LEVINE  
GORDON S. MOODIE  
JOHN A. NEUMARK  
DONGJU SONG  
LINDSAY R. SMITH  
AMANDA L. STRAUB  
BRADLEY R. WILSON  
FRANCO CASTELLI  
ROSS A. FIELDSTON  
SCOTT W. GOLENBOCK  
MOEZ M. KABA  
CAITH KUSHNER  
J. ALEJANDRO LONGORIA  
GRAHAM W. MELI  
JOSHUA M. MILLER  
OPHIR NAVE  
GREGORY E. PESSIN  
CARRIE M. REILLY  
WON S. SHIN  
JEFFREY UNGER  
MARK F. VEULEN  
CARMEN WOO  
IGOR FUKS  
BETTY W. GEE  
JONATHAN R. LA CHAPPELLE  
BRANDON C. PRICE  
ALISON M. ZIESKE

November 9, 2007

Hon. Sidney H. Stein  
United States District Judge  
United States Courthouse  
500 Pearl Street, Room 1010  
New York, New York 10007

Hon. Jed S. Rakoff  
United States District Judge  
United States Courthouse  
500 Pearl Street, Room 1340  
New York, New York 10007

Hon. Harold Baer, Jr.  
United States District Judge  
United States Courthouse  
500 Pearl Street, Room 2230  
New York, New York 10007

Re: *Gray v. Citigroup Inc., et al.*, 07 Civ 9790 (filed November 5, 2007) (Judge Stein)  
*Harris v. Prince, et al.*, 07 Civ 9841 (filed November 7, 2007) (Judge Rakoff)  
*Saltzman v. Citigroup Inc., et al.*, 07 Civ 9901 (filed November 8, 2007) (Judge Baer)

Dear Judges Stein, Rakoff and Baer:

We are writing to bring to your attention the fact that recent case filings before Your Honor Judge Rakoff, *Harris v. Prince, et al.*, 07 Civ 9841, filed November 7, 2007, and Your Honor Judge Baer, *Saltzman v. Citigroup Inc., et al.*, 07 Civ 9901, filed November 8, 2007, present common factual issues with a case previously filed on November 5, 2007, *Gray v. Citigroup Inc., et al.*, 07 Civ 9790, which was assigned to Your Honor Judge Stein and is the first-filed case.

The Honorable Sidney H. Stein  
The Honorable Jed S. Rakoff  
The Honorable Harold Baer, Jr.  
November 9, 2007  
Page 2

The common thrust of the factual allegations in all three cases relates to Citigroup's involvement in sub-prime mortgage securities business activities and public disclosures made by Citigroup with respect thereto. Thus:

- (1) *Gray*, while a case involving claims under ERISA on behalf of ERISA plan participants whose accounts held Citigroup stock, alleges that the Citigroup defendants imprudently allowed the investment of Citigroup ERISA plan assets in Citigroup common stock throughout the class period (defined as January 1, 2007 through present, *see* ¶ 2) despite the fact that the Citigroup defendants knew or should have known that investing in Citigroup stock was unduly risky due to various alleged business practices involving structured investment vehicles and sub-prime loans (*see* ¶ 4). The complaint alleges these practices "artificially inflated the value of shares of Citigroup stock" (¶ 4).

The factual allegations of the *Gray* complaint concern the sub-prime lending industry and Citigroup's alleged involvement in it (*see, e.g.*, ¶¶ 35-58) and public disclosures made by Citigroup during 2007, and, in particular, disclosures made on October 1, 2007, October 15, 2007 and early November 2007 (*see, e.g.*, ¶¶ 59-94). It is alleged that as information was revealed, Citigroup stock fell in price during 2007 (*see, e.g.*, ¶ 95).

- (2) *Harris* is a purported derivative action, with a Rule 10b-5 claim, but like *Gray*, the factual allegations are focused on Citigroup's activities in relation to sub-prime mortgage securities (*see e.g.*, ¶¶ 2-3, ¶¶ 57-61) and public announcements made by Citigroup in 2007, including on October 1, 2007, October 15, 2007 and early November 2007 (*see, e.g.*, ¶¶ 4-5, ¶¶ 62-74).
- (3) *Saltzman*, like *Harris*, asserts Rule 10b-5 claims arising out of Citigroup's activities in the mortgage securities business (¶¶ 3, 47-51) and public disclosures made by Citigroup during 2007, including announcements on October 1, 2007, October 15, 2007 and early November 2007 (*e.g.*, ¶¶ 3, 5-6, 8-9, 34-45). And, like the other actions, *Saltzman* alleges that false and misleading statements by the Citigroup defendants resulted in Citigroup's stock trading at "artificially inflated prices" (¶ 3). The *Saltzman* case is brought as a class action on behalf of purchasers of Citigroup's stock between April 17, 2006 and November 2, 2007 (¶ 1).

Defendants in all three cases overlap, including Citigroup Inc. and various present and former directors and officers.

These actions have just been filed and final determinations with respect to counsel for the defendants have not yet been made. However, it is expected that our firm, Wachtell, Lipton, Rosen & Katz, along with Paul, Weiss, Rifkind, Wharton & Garrison LLP, will be representing various of the defendants in these actions. We will be reaching out to plaintiff's counsel to discuss, and we hope resolve by agreement, various procedural and scheduling matters.

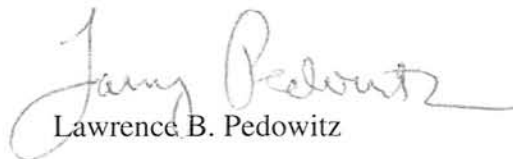


The Honorable Sidney H. Stein  
The Honorable Jed S. Rakoff  
The Honorable Harold Baer, Jr.  
November 9, 2007  
Page 3

The purpose of this letter is to bring to the Court's attention the clear commonality of the factual allegations in each of these cases and to request that all of these cases be assigned to the same judge in the interest of judicial efficiency and coordination.

Finally, Your Honors should be aware that there was another previously filed case before Judge Stein, *Leber v. Citigroup, Inc.*, 07 Civ 9329 (filed October 18, 2007). This suit alleges that Citigroup and various defendants engaged in prohibited transactions by causing Citigroup ERISA plans to invest in Citigroup-affiliated investment products and to purchase products and services provided by Citigroup's subsidiaries and affiliates in violation of various provisions of ERISA. We do not believe this action is related to the other actions referenced in the subject line of this letter and we do *not* request any consolidation or coordination of any of the actions listed in the subject line of this letter with *Leber*. We mention *Leber* here simply to avoid any confusion.

Very respectfully yours,

  
Lawrence B. Pedowitz

cc: Clerk of Court  
Southern District of New York

Brad S. Karp, Esq. (Paul, Weiss, Rifkind, Wharton & Garrison LLP)

All plaintiffs' counsel (See attached list)

## **TAB C**

## WACHTELL, LIPTON, ROSEN &amp; KATZ

MARTIN LIPTON  
HERBERT M. WACHTELL  
BERNARD W. NUSSBAUM  
RICHARD D. KATCHER  
ALLAN A. MARTIN  
LAWRENCE B. PEDOWITZ  
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PAUL VIZCARRONDO, JR.  
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RICHARD G. MASON  
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DAVID M. SILK  
ROBIN PANOVKKA  
DAVID A. KATZ  
ILENE KNABLE GOTTS  
DAVID M. MURPHY  
JEFFREY M. WINTNER  
TREVOR S. NORWITZ  
BEN M. GERMANA  
ANDREW J. NUSSBAUM  
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DAVID C. BRYAN  
STEVEN A. COHEN  
GAVIN D. SOLOTAR  
DEBORAH L. PAUL  
DAVID C. KARP  
RICHARD K. KIM  
JOSHUA R. CAMMAKER  
MARK GORDON  
JOSEPH D. LARSON  
LAWRENCE S. MAKOW  
JARED M. RUSMAN  
JEANNEMARIE O'BRIEN  
WAYNE M. CARLIN  
JAMES COLE, JR.  
STEPHEN R. DIPRIMA  
NICHOLAS G. DEMMO  
IGOR KIRMAN  
JONATHAN M. MOSES  
T. EIKO STANGE  
DAVID A. SCHWARTZ  
JOHN F. LYNCH  
WILLIAM SAVITT  
ERIC M. ROSOF  
MARTIN J.E. ARMS  
GREGORY E. OSTLING

51 WEST 52ND STREET  
NEW YORK, N.Y. 10019-6150  
TELEPHONE: (212) 403-1000  
FACSIMILE: (212) 403-2000

GEORGE A. KATZ (1965-1989)  
JAMES H. FOGELSON (1967-1991)

## OF COUNSEL

WILLIAM T. ALLEN  
PETER C. CANELLOS  
THEODORE GEWERTZ  
KAREN G. KRUEGER  
THEODORE A. LEVINE  
LEONARD M. ROSEN  
MICHAEL W. SCHWARTZ  
ELLIOTT V. STEIN  
J. BRYAN WHITWORTH  
AMY R. WOLF

## COUNSEL

MICHELE J. ALEXANDER  
DAVID B. ANDERS  
ADRIENNE ATKINSON  
ANDREW J.H. CHEUNG  
DAMIAN G. DIDDEN  
PAMELA EHRENKRANZ  
ROBERT A. FRIEDMAN  
PAULA N. GORDON  
NANCY B. GREENBAUM  
MAURA R. GROSSMAN  
IAN L. LEVIN  
ADAM J. SHAPIRO  
HOLLY M. STRUTT

J. AUSTIN LYONS  
LORI S. SHERMAN  
JONATHAN E. PICKHARDT  
NELSON O. FITTS  
JEFFREY C. FOURMAUX  
JEREMY L. GOLDSTEIN  
JOSHUA M. HOLMES  
DAVID E. SHAPIRO  
ANTE VUCIC  
IAN BOCKZO  
LAURYN P. GOULDIN  
MATTHEW M. GUEST  
DAVID E. KAHAN  
MARK A. KOENIG  
DAVID K. LAM  
MICHAEL S. WINOGRAD  
KATHRYN GETTLES-ATWA  
DANIELLE L. ROSE  
BENJAMIN M. ROTH  
ANDREW A. SCHWARTZ  
DAVID M. ADLERSTEIN  
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MARGARET ISA BUTLER  
EMIL A. KLEINHAUS  
WILLIAM E. SCHEFFER  
ADIR G. WALDMAN  
AREF H. AMANAT  
RONALD C. CHEN  
B. UMUT ERGUN  
EVAN K. FARBER  
MICHAEL KRASNOVSKY  
SARAH A. LEWIS  
YELENA ZAMACONA  
GARRETT B. MORITZ  
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MEREDITH L. TURNER  
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ROGER J. GRIESMEYER  
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GORDON S. MOODIE  
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SCOTT W. GOLENBOCK  
MOEZ M. KABA  
CAITH KUSHNER  
J. ALEJANDRO LONGORIA  
GRAHAM W. MELI  
JOSHUA M. MILLER  
OPHIR NAVE  
GREGORY E. PESSIN  
CARRIE M. REILLY  
WON S. SHIN  
JEFFREY UNGER  
MARK F. VEBLEN  
CARMEN WOO  
IGOR FUKS  
BETTY W. GEE  
JONATHAN R. LA CHAPELLE  
BRANDON C. PRICE  
ALISON M. ZIESKE

November 15, 2007

Hon. Sidney H. Stein  
United States District Judge  
United States Courthouse  
500 Pearl Street, Room 1010  
New York, NY 10007

Hon. Harold Baer, Jr.  
United States District Judge  
United States Courthouse  
500 Pearl Street, Room 2230  
New York, NY 10007

Hon. Denny Chin  
United States District Judge  
United States Courthouse  
500 Pearl Street, Room 1020  
New York, NY 10007

Hon. Jed S. Rakoff  
United States District Judge  
United States Courthouse  
500 Pearl Street, Room 1340  
New York, NY 10007

Hon. Richard J. Sullivan  
United States District Judge  
United States Courthouse  
500 Pearl Street, Room 615  
New York, NY 10007

Re: *Gray v. Citigroup Inc., et al.*, 07 Civ 9790 (Judge Stein)  
*Harris v. Prince, et al.*, 07 Civ 9841 (Judge Rakoff)  
*Saltzman v. Citigroup Inc., et al.*, 07 Civ 9901 (Judge Baer)  
*Cinotto v. Prince, et al.*, 07 Civ 9900 (Unassigned)  
*Hammerschlag v. Citigroup Inc., et al.*, 07 Civ 10258 (Judge Sullivan)  
*Rose v. Citigroup Inc., et al.*, 07 Civ 10294 (Judge Chin)

Dear Judges Stein, Rakoff, Baer, Sullivan and Chin:

We write to bring to your attention the fact that three recent case filings — *Cinotto v. Prince, et al.*, 07 Civ 9900, filed November 8, 2007, *Hammerschlag v. Citigroup Inc., et al.*, 07 Civ 10258, filed November 9, 2007, and *Rose v. Citigroup Inc., et al.*, 07 Civ 10294, filed November 13, 2007 — present common factual issues with at least three other cases that have been filed in this Court: (1) *Gray v. Citigroup Inc., et al.*, 07 Civ 9790, first-filed on November 5 and assigned to Your Honor Judge Stein; (2) *Harris v. Prince, et al.*, 07 Civ 9841,

Hon. Sidney H. Stein  
Hon. Jed S. Rakoff  
Hon. Harold Baer, Jr.  
Hon. Richard J. Sullivan  
Hon. Denny Chin  
November 15, 2007  
Page 2

filed November 7 and assigned to Your Honor Judge Rakoff; and (3) *Saltzman v. Citigroup Inc., et al.*, 07 Civ 9901, filed November 8 and assigned to Your Honor Judge Baer. The *Hammerschlag* case has been assigned to Your Honor Judge Sullivan, the *Rose* case has been assigned to Your Honor Judge Chin, and *Cinotto*, although currently unassigned, has been referred to Your Honor Judge Rakoff as possibly related to *Harris*.

In our November 9 letter to Judges Stein, Rakoff and Baer (which is enclosed), we noted that the *Gray*, *Harris* and *Saltzman* cases are all predicated upon the losses Citigroup suffered in its mortgage securitization business; and we suggested it would serve the interests of judicial efficiency and coordination for the *Gray*, *Harris* and *Saltzman* cases to be assigned to the same Judge.

The same is true of the newly filed *Cinotto*, *Hammerschlag*, and *Rose* actions. They likewise rest upon Citigroup's recent losses on mortgage securities:

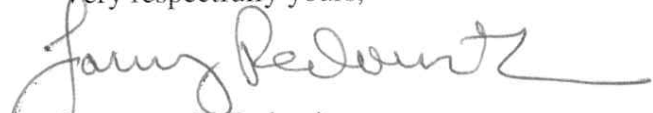
- *Cinotto* is a purported derivative action claiming mismanagement on the part of current and former Citigroup directors, including specific allegations that the defendants "intentionally caused Citigroup to issue financial statements that concealed the dangers Citigroup faced as a result of its huge exposure to [collateralized debt obligations]," which were "secured by risky subprime mortgages." Compl. at ¶¶ 3-4.
- The *Hammerschlag* plaintiffs allege, in support of Rule 10b-5 claims, that Citigroup's stock price was artificially inflated as a result of supposedly misleading statements concerning the company's "actual exposure to the risk of loss due to its enormous warehoused portfolio of mortgage-backed securities." Compl. at ¶ 1.
- The *Rose* complaint asserts ERISA claims and alleges that the Citigroup defendants imprudently invested plan assets in Citigroup common stock, notwithstanding that defendants either knew, or should have known, that Citigroup had failed to disclose its "substantial entrenchment in the subprime mortgage and related securities markets," and that as a result, "the Company's stock price was artificially inflated." Compl. at ¶ 10.



Hon. Sidney H. Stein  
Hon. Jed S. Rakoff  
Hon. Harold Baer, Jr.  
Hon. Richard J. Sullivan  
Hon. Denny Chin  
November 15, 2007  
Page 3

Accordingly, for the sake of efficiency, and to minimize the burden on both the Court and the parties, we request that the *Cinotto*, *Hammerschlag*, and *Rose* cases — together with the *Gray*, *Harris*, and *Saltzman* actions and any other related cases yet to be filed — be assigned to the same Judge.

Very respectfully yours,



Lawrence B. Pedowitz

Enclosure

cc: Clerk of Court (Southern District of New York)  
Brad S. Karp, Esq. (Paul, Weiss, Rifkind, Wharton & Garrison LLP)  
All plaintiffs' counsel (See attached list)